

ESTTA Tracking number: **ESTTA708550**

Filing date: **11/13/2015**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91212905
Party	Plaintiff EMI (IP) Limited
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Submission	Motion to Suspend for Settlement Discussions
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Signature	/Brent S. LaBarge/
Date	11/13/2015
Attachments	2015-11-13 MUSIC NOW -- Motion for Suspension for Settlement with Consent.pdf(14267 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Application Serial No. 78/835,315

EMI (IP) LIMITED)	
)	
Opposer,)	
)	
v.)	Opposition No. 91212905
)	
OCC ESTABLISHMENT,)	
)	
Applicant.)	
)	

-and-

In the matter of Registration No. 2,100,606

EMI (IP) LIMITED)	
)	
Petitioner,)	
)	
v.)	Cancellation No. 92058236
)	
OCC ESTABLISHMENT,)	
)	
Respondent.)	
)	

MOTION FOR SUSPENSION FOR SETTLEMENT WITH CONSENT

EMI (IP) Limited (“EMI”) hereby moves, with consent, to suspend the discovery and trial deadlines in this matter by sixty (60) days pursuant to 37 C.F.R. § 2.117 and T.B.M.P. § 510.

Pursuant to the Board’s order of March 23, 2015, as good cause therefor, the parties state that they have actively been engaged in settlement discussions. Specifically, after the parties exchanged the most recent counterproposal in September 2015, EMI discussed this proposal both internally and with an unaffiliated entity, Sony Music Entertainment UK (which, as

explained below, owns the NOW Marks within the European Economic Area). In turn, OCC has separately taken EMI's recent settlement proposals to its management for further consideration. The parties have tentatively agreed on several outstanding issues and expect that continued negotiations will result in a final resolution of this dispute.

The parties ideally hope to reach a settlement with worldwide applicability, which requires input from a third party that is not involved in the present proceedings. Within the European Economic Area, Sony Music Entertainment UK Limited owns the rights to the NOW Marks asserted by EMI in these proceedings. EMI owns the NOW Marks everywhere else. The European Commission required this division of ownership as a condition of granting regulatory approval for Universal Music Group's acquisition of the recorded music business of EMI (*see generally* http://europa.eu/rapid/press-release_IP-12-999_en.htm). The legal complexities of this ownership structure and the level of input needed from each owner's business units account for the time spent negotiating settlement. The parties expect to circulate a draft of a proposed settlement agreement in the near future.

EMI has secured the express consent of all other parties to this proceeding for the suspension requested herein.

Dates as Reset:

Time to Answer : CLOSED

Deadline for Discovery Conference : CLOSED

Discovery Opens : CLOSED

Initial Disclosures Due : CLOSED

Expert Disclosure Due : CLOSED

Discovery Closes : January 14, 2016

Plaintiff's Pretrial Disclosures : February 28, 2016

Plaintiff's 30-day Trial Period Ends : April 13, 2016

Defendant's Pretrial Disclosures : April 28, 2016

Defendant's 30-day Trial Period Ends : June 12, 2016

Plaintiff's Rebuttal Disclosures : June 27, 2016

Plaintiff's 15-day Rebuttal Period Ends : July 27, 2016

Dated: November 13, 2015

Respectfully submitted,

EMI (IP) LIMITED

By: /s/Brent S. LaBarge/
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Attorneys for EMI (IP) Limited

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing Motion for Suspension for Settlement with Consent has been served by electronically transmitting said copy, with the consent of OCC Establishment, on November 13, 2015, to:

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s/Brent S. LaBarge/

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